

**Perez v. Roe, Case No. 03-56532**  
**Rawlinson, Circuit Judge, concurring:**

**JUL 31 2006**

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

I concur in the result of this case. However, I disagree that the district court's dismissal of Benjamin Andrew Perez's first habeas petition was improper. In my considered opinion, our case authority that imposes an obligation on district courts to provide habeas petitioners with options does not apply when the petitioner is represented by an attorney. The cases cited in the majority disposition support my view. *See Brambles v. Duncan*, 412 F.3d 1066, 1068 (9th Cir. 2005) (describing the petitioner as "the *pro se* Brambles") (emphasis added); *see also Jefferson v. Budge*, 419 F.3d 1013, 1016 (9th Cir. 2005) (describing the issue in *Pliler v. Ford*, 542 U.S. 225 (2004), as "whether the District Court erred by dismissing, pursuant to *Rose [v. Lundy]*, 455 U.S. 509 (1982)], a *pro se* habeas petitioner's two habeas petitions without giving him *two particular advisements*") (citation omitted) (emphasis in the original).

I would not extend *Pliler* to include habeas petitioners who are represented by counsel. Accordingly, I would affirm the district court's dismissal of Perez's habeas petition on the basis that the district court had no obligation to advise a counseled petitioner regarding available legal options.